

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

IN RE RESTASIS (CYCLOSPORINE
OPHTHALMIC EMULSION)
ANTITRUST LITIGATION

18-MD-2819 (NG) (LB)

THIS DOCUMENT APPLIES TO:

All Direct Purchaser Class Action:

FWK Holdings, LLC v. Allergan, Inc., 18-cv-00677 (E.D.N.Y.);

Rochester Drug Co-Operative, Inc. v. Allergan, Inc., 18-cv-00970 (E.D.N.Y.);

KPH Healthcare Services, Inc. a/k/a Kinney Drugs, Inc. v. Allergan, Inc., No. 18-cv-00974 (E.D.N.Y.); and

Meijer, Inc. and Meijer Distribution, Inc. v. Allergan, Inc., 19-cv-02563 (E.D.N.Y).

**DIRECT PURCHASER CLASS PLAINTIFFS' UNOPPOSED MOTION FOR
CERTIFICATION OF SETTLEMENT CLASS, FINAL APPROVAL OF SETTLEMENT,
APPROVAL OF PLAN OF ALLOCATION, REIMBURSEMENT OF EXPENSES AND
AWARD OF ATTORNEYS' FEES AND SERVICE AWARDS, AND ORDER OF
DISMISSAL WITH PREJUDICE**

The direct purchaser class plaintiffs, FWK Holdings, LLC, Rochester Drug Co-Operative, Inc., KPH Healthcare Services, Inc. a/k/a Kinney Drugs, Inc., Meijer, Inc., and Meijer Distribution, Inc., respectfully move this court for an Order:

1. Certifying the direct purchaser settlement class for the purposes of entering into the settlement with defendant Allergan pursuant to the settlement agreement between Allergan and the direct purchaser class plaintiffs, on behalf of themselves and a putative class of direct purchasers of Restasis ("Settlement Agreement") (ECF No. 490-1);
2. Appointing the direct purchaser class plaintiffs as the representatives of the settlement class;

3. Appointing Thomas M. Sobol and Kristen A. Johnson of Hagens Berman Sobol Shapiro LLP as Lead Counsel and appointing the members of the direct purchaser class plaintiffs' Executive Committee as Class Counsel pursuant to Rule 23(g);
4. Finding that the notice given to the direct purchaser settlement class satisfies due process, since class members were given due and adequate notice of the settlement, including their rights to opt out of the class or object to the settlement;
5. Finding that the settlement between the direct purchaser class plaintiffs and Allergan pursuant to the Settlement Agreement is in all respects fair, reasonable, and adequate to class members;
6. Entering final judgment and dismissing all of the direct purchaser class plaintiffs' claims against Allergan with prejudice, as described in the Settlement Agreement;
7. Approving the direct purchaser class plaintiffs' Plan of Allocation (ECF No. 490-7);
8. Approving Class Counsel's request for reimbursement of their reasonable litigation expenses, totaling \$1,948,635.05;
9. Awarding Class Counsel a fee award of one-third of the net settlement amount (one-third of \$51.25 million settlement minus the requested litigation expenses), totaling \$16,433,788.32, plus interest on that amount that may accrue prior to distribution; and
10. Approving service awards of \$150,000 to each of class plaintiffs and proposed representatives FWK Holdings, LLC, Rochester Drug Co-Operative, Inc., and KPH Healthcare Services, Inc. a/k/a Kinney Drugs, Inc., and \$75,000 to class plaintiffs and proposed representatives Meijer, Inc. and Meijer Distribution, Inc. (for a total of \$525,000) in recognition of their participation in this case and the time and effort they expended on behalf of the proposed class.

In support of this Motion, the direct purchaser class plaintiffs rely upon the accompanying Memorandum of Law and the Declaration of Tina Chiango Regarding Notice to the Direct Purchaser Class. Class counsel also submit a proposed form of order with this Motion.

Dated: September 15, 2020

Respectfully submitted,

/s/ Thomas M. Sobol

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CERTIFICATE OF SERVICE

I, Thomas M. Sobol, hereby certify that I caused a copy of the foregoing to be filed electronically via the Court's CM/ECF system. Those attorneys who are registered CM/ECF users may access these filings, and notice of these filings will be sent to those parties by operation of the CM/ECF system.

Dated: September 15, 2020

/s/ Thomas M. Sobol
Thomas M. Sobol